

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 966

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Terry T. Marquardt

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING THAT CERTAIN
SERVICE CREDIT MAY BE PURCHASED FOR MILITARY SERVICE OR PUBLIC
HEALTH SERVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-11-34 NMSA 1978 (being Laws 1967,
Chapter 16, Section 157, as amended) is amended to read:

"22-11-34. ALLOWED SERVICE CREDIT. --

A. A member shall be certified to have acquired
allowed service credit pursuant to the Internal Revenue Code of
1986 for those periods of time when he was:

(1) employed prior to [~~the effective date of~~
~~the Educational Retirement Act~~] July 1, 1967 in a federal
educational program within New Mexico, including United States
Indian schools and civilian conservation corps camps. This

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 service credit shall be allowed without contribution;

2 (2) engaged in military service that
3 interrupted his employment in New Mexico if he returned to his
4 employment within eighteen months following honorable
5 discharge. This service credit shall be allowed without
6 contribution;

7 (3) engaged in United States military service
8 or the commissioned corps of the public health service from
9 which he was honorably discharged if he contributes to the fund
10 a sum equal to ten and one-half percent of his average annual
11 salary for that period of time for which he has acquired earned
12 service credit pursuant to the Educational Retirement Act and
13 subject to the federal Uniformed Services Employment and
14 Reemployment Rights Act of 1994 for each year of service credit
15 he desires to purchase. Average annual salary shall be
16 determined in accordance with rules promulgated by the board
17 but shall always be based on actual salaries earned by the
18 member where the actual salaries can be ascertained by the
19 board. The employer's contributions for service credit shall
20 not be paid by the employer. The purchase of service credit
21 provided in this ~~[section]~~ paragraph shall be carried out by
22 the member within three years after the date of the member's
23 employment following service; ~~[or]~~

24 (4) employed:

25 (a) in a public school or public

. 145194. 1

underscored material = new
[bracketed material] = delete

1 institution of higher learning in another state, territory or
2 possession of the United States;

3 (b) in a United States military
4 dependents' school operated by a branch of the armed forces of
5 the United States;

6 (c) as provided in Paragraph (1) of this
7 subsection after ~~[the effective date of the Educational~~
8 ~~Retirement Act]~~ July 1, 1967; or

9 (d) in a private school or institution
10 of higher learning in New Mexico whose education program is
11 accredited or approved by the state board at the time of
12 employment; or

13 (5) engaged in United States military service
14 or the commissioned corps of the public health service from
15 which he was honorably discharged if he contributes to the fund
16 a sum equal to twenty-five percent of his current annual salary
17 at the time of purchase pursuant to the Educational Retirement
18 Act and subject to the federal Uniformed Services Employment
19 and Reemployment Rights Act of 1994 for each year of service
20 credit he desires to purchase. Average annual salary shall be
21 determined in accordance with rules promulgated by the board
22 but shall always be based on actual salaries earned by the
23 member where the actual salaries can be ascertained by the
24 board. The employer's contributions for service credit shall
25 not be paid by the employer. The purchase of service credit

. 145194. 1

1 provided for in this paragraph shall be carried out by the
2 member after four or more years from the date of the member's
3 employment following service.

4 B. The member or employer under Paragraph (4) of
5 Subsection A of this section shall contribute to the fund for
6 each year of allowed service credit desired an amount equal to
7 twelve percent of the member's annual salary at the time
8 payment is made if the member is employed or twelve percent
9 times the member's annual salary during the member's last year
10 of employment if the member is not employed at the time of
11 payment. Contributions paid for the member who is not employed
12 shall bear interest at the average rate earned by the fund
13 during the five-fiscal-year period immediately preceding the
14 date of payment. Such interest shall run from the date the
15 member last terminated employment to the date of payment.

16 Effective July 1, 2001, the member or employer under Paragraph
17 (4) of Subsection A of this section shall contribute to the
18 fund for each year of allowed service credit desired an amount
19 equal to the actuarial value of the service purchased as
20 defined by the board. Payment pursuant to Paragraph (4) of
21 Subsection A of this section may be made in installments, at
22 the discretion of the board, over a period not to exceed one
23 year and, if the sum paid does not equal the amount required
24 for any full year of allowed service credit, the member shall
25 acquire allowed service credit for that period of time that is

. 145194. 1

underscored material = new
[bracketed material] = delete

1 proportionate to the payment made. Half credit may be allowed
2 without contribution for not more than ten years of the
3 educational service described by Subparagraph (a) of Paragraph
4 (4) of Subsection A of this section if that service was prior
5 to June 13, 1953 and if the member was employed in New Mexico
6 prior to June 13, 1953 in a position covered by the Educational
7 Retirement Act or a law repealed thereby.

8 C. No member shall be certified to have acquired
9 allowed service credit:

10 (1) under any single paragraph or the
11 combination of only Paragraphs (1) and (4) or only Paragraphs
12 (2), [~~and~~] (3) and (5) of Subsection A of this section in
13 excess of five years; or

14 (2) in excess of ten years for any other
15 combination of Paragraphs (1) through [~~(4)~~] (5) of Subsection A
16 of this section.

17 D. The provisions of this section are made
18 applicable to the services described prior to as well as after
19 [~~the effective date of the Educational Retirement Act~~] July 1,
20 1967. "